

MEMO ENDORSED

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UNITED STATES DISTRICT COURT
Southern District of New York

Case 1:22-cv-06749-VEC

2022 SEP - 6 AM 10:28

Alyn Liburd Liburd, on behalf of herself and others
Situated in proposed FLSA Collective Action

Plaintiff

V.

KTB Coffee Shop
Defendant

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 9/8/2022

Motion to Dismiss

Dear Judge Caproni,

We respectfully request a motion to dismiss case 1:22-CV-06749-VEC, Alyn Liburd (plaintiff) V. KTB Coffee Shop (Defendant), based on the location of our business being located in the State of New Jersey.

KTB Coffee Shop is a small café with less 3 employees and located in N. Arlington, NJ. KTB does not do business outside of our shop in New Jersey and the plaintiff, at the time of employment, lived and worked in New Jersey. Our gross sales are under \$150,000 per year and we currently have no employees other than the owners who operate the business.

Regardless of the claims being false, we are requesting the motion to dismiss because we are not subject to New York Labor laws and do not meet the criteria for Fair Labor Standards Act (FLSA) based on our company size, income and location.

Thank you for your consideration.



Kristopher Bagnosche and Tatiane Bagnosche
8/31/2022

Defendants:

Kristopher and Tatiane Bagnosche
KTB Coffee Shop
323 Ridge Rd
North Arlington, NJ 07032

Attachments:

- 1.) P&L for 2021 Calendar year with income highlighted
- 2.) New Jersey Certificate of formation with business address highlighted

Date: 08/31/2022

KTB Coffee Shop and Lounge

Profit and Loss

January - December 2021

	TOTAL
Income	\$135,301.00
Cost of Goods Sold	\$11,707.95
GROSS PROFIT	\$123,593.65
Expenses	\$132,534.02
NET OPERATING INCOME	\$-8,940.37
Other Income	\$ -8.14
NET OTHER INCOME	\$ -8.14
NET INCOME	\$ -8,948.51

NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES

CERTIFICATE OF FORMATION

KTBAIGNOSCHE LLC
0450276675

The above-named DOMESTIC LIMITED LIABILITY COMPANY was duly filed in accordance with New Jersey State Law on 06/05/2018 and was assigned identification number 0450276675. Following are the articles that constitute its original certificate.

1. Name:

KTBAIGNOSCHE LLC

2. Registered Agent:

KRISTOPHER BAIGNOSCHE

3. Registered Office:

508 HICKORY ST
KEARNY, NEW JERSEY 07032

4. Business Purpose:

SELL COFFEE, PASTRIES, WINE AND BEER

5. Effective Date of this Filing is:

06/05/2018

6. Members/Managers:

KRISTOPHER BAIGNOSCHE
508 HICKORY ST
KEARNY, NEW JERSEY 07032

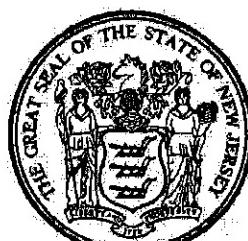
TATIANE BAIGNOSCHE
508 HICKORY ST
KEARNY, NEW JERSEY 07032

7. Main Business Address:

323 RIDGE RD
N ARLINGTON, NEW JERSEY 07031

Signatures:

KRISTOPHER BAIGNOSCHE
AUTHORIZED REPRESENTATIVE



*IN TESTIMONY WHEREOF, I have
hereunto set my hand and
affixed my Official Seal
5th day of June, 2018*

A handwritten signature in black ink, appearing to read "Elizabeth Maher Muoio".

*Elizabeth Maher Muoio
State Treasurer*

Certificate Number : 4055615380

Verify this certificate online at

https://www.state.nj.us/TYTR_StandingCer/JSP/Verify_Cert.jsp



14th Coffee Shop
323 Ridge Rd
N. Arlington, NJ 07031

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UNITED STATES District Court
ATTN: Prose Department
500 Pearl St
New York, NY 10007

10007-134508

Application DENIED without prejudice. A limited liability company may only appear in federal court through a licensed attorney. See *Lattanzio v. COMTA*, 481 F.3d 137, 140 (2d Cir. 2007). Pursuant to Rule 1 of the Undersigned's Individual Practices, all counsel must file Notices of Appearance on ECF before filing any materials on ECF. Moreover, motions to dismiss must adhere to the requirements under SDNY Local Rule 7.1, and cannot be styled as letter motions.

IT IS HEREBY ORDERED that the deadline for Defendant to obtain counsel and file an appearance on the docket is **October 7, 2022**; Defendant's deadline to answer, move, or otherwise respond to the Complaint is adjourned to **30 days** after retaining counsel.

IT IS FURTHER ORDERED that Plaintiff must serve a copy of this order on Defendant and file proof of service on the docket by no later than **September 9, 2022**. The Clerk of Court is also respectfully directed to mail a copy of this Order to the address on file for Defendant.

SO ORDERED.



Date: 9/8/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE